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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Tarek Ibrahim, et al.
Serial No.: 10/587,879
Filed: July 27, 2006
For: PICO CELL WIRELESS LOCAL AREA NETWORK (WLAN)
Group No.: 2617
Examiner: Isaak R. Jama
Confirmation No.: 3516

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The Applicants respectfully request review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. This review is requested for the reasons stated in the arguments below, demonstrating the clear legal and factual deficiency of the rejections of some or all of the claims.

Claims 1-4 and 7-8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Zaki (US Patent No. 7,164,915) in view of Ruan (US Patent Application Pub. No. 2004/0246922).¹

¹ Applicants again note that the Office Action refers to Ruan as U.S. Patent Application Publication No. 2006/0187873. This is the publication number for the previously-cited Friday reference. Applicants assume that the current Office Action relies on the Ruan reference and that the reference of Friday's publication number was inadvertent. And, Applicants again note that the Office Action rejects Claims 1-4 and 7-8 based on Zaki in view of Ruan. However, in the body of the final Office Action (page 7), there is a paragraph stating reasons for also rejecting Claims 10, 11, and 13. Applicants assume the Examiner also intended to reject Claims 10, 11, and 13 under Zaki in view of Ruan.

Claims 5-6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Zaki in view of Astarabadi (US Patent Application Pub. No. 2005/0138178) and Ruan. Claim 9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Zaki in view of Astarabadi, and further in view of Davi (Alternative Wireless).

The final Office Action (and the non-final Office Action) concedes that Zaki does not disclose or describe “receiving from the first access point the roaming candidate list identifying the plurality of candidate access points in the WLAN.” However, the final Office Action argues this missing limitation is allegedly taught by Ruan. The Office Action asserts that Ruan [0014] discloses that “the wireless device maintains an access point list of wireless access points and corresponding access point association quality values.” Office Action, page 4. Notably, the Office Action is silent on the issue of Ruan describing that its wireless devices receive “*from the first access point the roaming candidate list* identify the plurality of candidate access points.” The Office Action only asserts that the wireless device “updates” its access point list from time to time (and describes what information is in the list). Nowhere in the Office Action is it asserted that Ruan’s wireless devices receives from an access point a roaming candidate list.

The cited portions of Ruan (paragraphs 0014, 0044) are set forth below in their entireties for ease of reference:

[0014] It may be that the wireless device maintains an access point list of wireless access points and corresponding access point association quality values. The wireless device can compare the corresponding access point association quality values to the association quality of the current wireless access point and/or the specified quality threshold value. The wireless device determines that the wireless device should attempt to associate with one of the at least one other wireless access points based on the comparison. For example, the wireless device may identify one or more other wireless access points that have a corresponding association quality above the

specified quality threshold value. Accordingly, a wireless device can determine when to roam based on the quality of an association with a current wireless access point, even before signal strength drops below a roaming threshold.

[0044] Station 271 can maintain access point list 256, which includes entries for access points that are in communication with station 271. From time to time, station 271 can update entries for access points contained in access point list 256. Each entry in access point list 256 includes an AP identifier field, a quality parameter field, and an AP configuration parameters field. An AP identifier field can store an AP identifier value that is used by station 271 to identify an access point. An AP identifier field can store a network address value, such as, for example, a Media Access Control ("MAC") address, that is essentially unique to an access point.

Clearly, the above passages from Ruan do not disclose or describe the station 271 (wireless device) "receiving from the first access point the roaming candidate list identifying the plurality of candidate access points in the WLAN." The Office Action appears to equate the maintenance by the wireless device of an access point list with Applicant's "receiving from the first access point the roaming candidate list." Though the Office may use a broadest reasonable construction standard in interpreting the claim language, such construction must be reasonable..

Moreover, reference is made to Ruan's paragraphs 0070 and 0070 as set forth below:

[0070] FIG. 4 illustrates an example flowchart of a method 400 for identifying a new access point for a wireless device to attempt to associate with in accordance with the principles of the present invention. The method 400 will be discussed with respect to the station and access points depicted in network architecture 200.

[0071] The method 400 includes an act of creating a candidate list of one or more access points (act 401). Act 401 can include a wireless device creating a candidate list of one or more wireless access points from among a plurality of wireless access points. For example, access point selection module 257 can create a candidate list of one or more wireless access points from network architecture 200, such as, for example, access points 205, 206, and 207. Access point selection module 257 can create a candidate list based on the configuration of access points.

Here, Ruan is specifically describing its method of identifying a new access point in the roaming

process. Ruan clearly describes it is the station 271 (wireless device) that “creates” the candidate list – not an access point. Ruan’s wireless device itself creates the candidate list from among a plurality of wireless access points (see above). As a result, Ruan does not (and cannot) disclose that the station 271 (wireless device) receives a roaming candidate list (as described in Applicant’s specification) from an access point.² In addition, Ruan indicates that his network’s access points each individually send resource information for only that particular access point. This resource information is sent to the wireless device. Any evaluation, listing, ranking, etc. of multiple access points is performed by the wireless device. Ruan, Fig. 5; paragraphs [0052], [0055], and [0057]. In sum, Ruan’s wireless device does not receive, from a first access point, a roaming candidate list identifying a plurality of candidate access points.

Regarding independent Claim 5 (and its dependent claims) Applicants respectfully submit that the arguments set forth above similarly apply. That is, independent Claim 5 similarly recites that “the roaming candidate list identifying the plurality of candidate access points in the WLAN is received from the first access point.” As shown above, this element/feature is not disclosed or taught by Ruan.

Regarding independent Claim 9, and as set forth in Applicants’ prior responses, original Claim 9 recites that “the access points in a first cell are operable for transmitting a roaming candidate list to a mobile device associated with one of the access points in the first cell, the list identifying one or more neighborhood access points.” The final Office Action points to Astarabadi (Figure 2, #450, Figure 3, #458 and Col. 3, paragraph 0041) as teaching this element/feature. Applicants respectfully

² Applicants have reviewed the final Office Action’s “Response to Arguments”. As set forth in the body of this paper, Ruan simply does not disclose element/feature recited in Applicant’s claims. Ruan does not disclose receiving a roaming candidate list from an access point.

disagree. This portion of Astarabadi merely describes that the "AP list" may be downloaded. What APs are identified in this list is undetermined. Applicants' list is a list of roaming candidates. Astarabadi does not disclose this. In fact, reference to Astarabadi, Col. 3, paragraph 0036, confirms that the "AP list" is provided to the wireless station upon initial login, and the list includes "each AP to which a user of the wireless station has access privileges." Thus, Applicants submit the AP list initially downloaded to the wireless station in Astarabadi is not a "roaming candidate list" as that term is used and described in Applicant's specification. The Davi reference fails to cure the noted deficiencies in Zaki and Astarabadi, therefore, the proposed combination of Zaki-Astarabadi-Davi fails to render obvious Claim 9. Moreover, for the same reasons provided above in connection with Claims 1-8, and 10-13, this deficiency in the Zaki, Astarabadi and Davi references would not be overcome by additional reliance on Ruan.

Based on the foregoing, Applicants respectfully request withdrawal of all the 35 U.S.C. § 103(a) rejections of Claims 1-13.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Nortel Networks Deposit Account No. 14-1315.

Respectfully submitted,
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